

## 2016 CITY OF SAN JOSE – POA NEGOTIATIONS

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### CITY PROPOSAL– REHIRED RETIREE PROGRAM

City Proposed Language:

#### ARTICLE 60

The City may establish a Rehired Retiree Program for the reemployment of Police retirees of the Police and Fire Department Retirement Plan. This program shall be similar to the Rehired Retiree Program for the reemployment of retirees of the Federated City Employees' Retirement System as detailed in the attached City Administrative Policy Manual Section 3.1.5 and the San Jose Municipal Code, Part 9 of Chapter 3.28 of Title 3.



# Reemployment of Retirees

3.1.5

## PURPOSE

This section covers the process for reemployment of retirees of the Federated Retirement System. Federated retirees may be hired into the Unclassified Service for the purpose of performing duties of a temporary or intermittent nature.

The intent of this program is to help the City meet workload issues of a temporary nature. Retirees are to be used for special projects, seasonal or short-term work to supplement the regular Civil Service workforce.

This program is **not** to be used to circumvent the Civil Service testing and hiring process for positions that should appropriately be filled through an appointment in the classified Civil Service.

## AUTHORITIES

San Jose Municipal Code, Part 9 of Chapter 3.28 of Title 3

3.28.1190 Limited Reemployment of Retired Person

- A. A person who has been retired under this System, for service or disability, may be employed by the City to perform City service on a temporary basis without reinstatement from retirement where the employment does not exceed one hundred twenty (120) working days or nine hundred sixty (960) hours, whichever is greater, in any payroll calendar year.
- B. A person who retired for disability shall be eligible for employment under this section only if employment is not available under Part 10A of this Chapter.

## POLICY

Retirees may be returned to City employment through a request to their former department. Their former department may then submit a "Request to Hire a Temporary Employee (Unclassified)" form to Human Resources.

### 1. Employment Status

Retirees rehired under this program are temporary, unclassified, and unbenefitted (job code 9984) employees.

### 2. Program Eligibility

Retired City employees are eligible for rehire under this program thirty (30) days after the effective date of their service retirement.

A person who retired for disability shall be eligible for employment under this program only if employment is not available under Part 10A of Chapter 3.28 (Reemployment of Disability Retiree) of the City of San Jose Municipal Code.

**Reemployment of Retirees****3.1.5****3. Time Limit**

Appointments are limited by San Jose Municipal Code and the Federated Retirement System to a maximum of 960 hours in any payroll calendar year. "Payroll calendar year" means the twelve-month period commencing on the first day of the first pay period (01) for active City employees.

**4. Departments are Responsible for Budget Accountability**

The cost of wages paid to a rehired retiree is charged to the hiring department's budget. The hiring department is responsible for ensuring that the expenditure does not exceed its authorized budget.

Any proposal for appointment of a temporary employee that covers a period of more than two (2) weeks must be approved in writing by the Budget Office.

Registry assignments may not be extended beyond two (2) weeks without Budget Office approval.

**5. Determination of Salary**

If the rehired retiree is to perform work of the same type and level as his/her former job classification, the pay will be at the current rate for that classification which the retiree last occupied, and at the retiree's former pay step.

If the job duties of a rehired retiree are not substantially similar to his/her former City classification, the retiree shall be paid the current hourly rate of the classification that most closely matches the assigned duties. The maximum salary is the current top step of the designated classification. In no event shall a retiree be paid less than the City's living wage.

The retiree's pay rate will be evaluated and may be reset at the beginning of each new assignment to reflect the current pay in effect for the retiree's designated classification. Rehired retirees are not eligible for general, step or merit increases.

**6. Benefits Received by the Employee**

Employees rehired under this plan are Temporary Unclassified Retiree PT (job code 9984), unbenefited employees.

Rehired retirees will not be eligible to make contributions into the Federated Retirement System, the City's PTC 457 plan, or the 457 plan established under Chapter 3.48 of the Municipal Code. Hours worked as a rehired retiree do not increase the Retirement Benefit established at the time of retirement. **(Note: Retirement benefits will be suspended if a Rehired Retiree works more than 960 hours in a payroll calendar year).**

Rehired retirees shall not be entitled to a disability retirement from the position in which the person is reemployed.

## Reemployment of Retirees

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Rehired retirees will be covered for all work related injuries under the City's Workers' Compensation program.

### 7. Status and Seniority

Rehired retiree employees are at-will and therefore subject to removal from assignment or placement eligibility at any time. Rehired retirees will automatically be placed on "inactive" status (ineligible to receive pay) for the remainder of the payroll calendar year after working a total of nine hundred and sixty (960) hours. There is no seniority credit associated with this program.

Retiree must have necessary skills and experience to fulfill the job. Rehired retirees will not be used as supervisors of permanent employees of the same or higher class. Rehired retirees will not have primary responsibility for performance appraisals of regular Civil Service employees.

### 8. Termination of Assignment

When the rehired retiree leaves employment with the City, the department should submit a completed Notice of Separation form for the employee.

### 9. Departments are Responsible for Avoiding Nepotism

The administration of this method of hiring has been simplified as much as possible to give departments flexibility to handle their unique temporary staffing needs. Therefore, it is essential that departments ensure that job-related criteria are used in all temporary employee-staffing decisions. Discrimination, favoritism, political interference, and nepotism are strictly prohibited in the selection and use of these employees.

### 10. Reporting Requirements

The Office of Employee Relations will track the names of rehired retirees, the assigned department(s), job title, and hours worked in the most recent quarter, and cumulative hours worked in the current payroll calendar year. This information will be transmitted to the bargaining unit representatives on a quarterly basis. In addition, Employee Relations will report the cumulative hours worked by retirees in the current and prior payroll calendar year to the bargaining unit representative by March 1<sup>st</sup> of each year.

## PROCEDURES

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|---------------------------------|---|
| Retiree                         | 1. Submits a reemployment request to their former department indicating a desire to return to work under the "Rehire of Retiree" program.   |
| Department Director or Designee | 2. Prepares "Request to Hire Temporary Employee (Unclassified)" form, which includes a description of the scope of work, recommended salary, and source of funding, and submits to Human Resources. |
| Human Resources                 | 3. Reviews information on Request form. Verifies that the scope of work is appropriate for a Temporary Employee Retiree Unclassified.   |

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Approves or adjusts salary. If approved, signs form and forwards to Budget Office. If disapproved, advises departments of other hiring alternatives.

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| Budget Office                   | 4. Reviews proposal for spending authorization. If approved, signs form and returns form to hiring department.  |
| Department Director or Designee | 5. Upon receiving Human Resources and Budget Office approval, makes offer to candidate. Sends a completed Transmemo and a copy of the approved Request to Hire a Temporary Employee (Unclassified) form to Human Resources.   |
| Human Resources                 | 6. Enters Retiree information into Retired Employee Registry database (for tracking purposes). If Rehired Retiree has already been "rehired" into PeopleSoft, reviews salary placement of retiree. If necessary, Transactions staff will enter a row to adjust to salary to reflect the hourly wage requested in "Request to Hire Temporary Employee (Unclassified) document. |
| Employee Relations              | 7. Generates periodic reports to the bargaining unit representatives.   |

Approved:

/s/ Jennifer Schembri  
Director of Employee Relations

March 24, 2016  
Date

Approved for posting:

/s/ Jennifer Maguire  
Senior Deputy City Manager

March 24, 2016  
Date

3.28.1180 - Reemployment of retired member to perform city services other than federated city services.

- A. If a person who has been retired for service pursuant to the provisions of this Part 9 is retained or reemployed by the city, other than as an independent contractor or pursuant to Section 3.28.1190, to render any service which is not federated city service, said person's service retirement allowance shall be suspended as of the effective date of such reemployment and shall remain suspended while the person is retained or reemployed to perform such service. Upon cessation of such reemployment, the person's service retirement allowance shall be reinstated.
- B. The provisions of this section shall not apply to the election or appointment of any retired person to the city council or to any board or commission of the city.

(Prior code § 2904.1409; 3.28.1190; Ords. 21265, 26355.)

3.28.1190 - Limited reemployment of retired person.

- A. A person who has been retired under this system, for service or disability, may be employed by the city to perform city service on a temporary basis without reinstatement from retirement where the employment does not exceed one hundred twenty working days or nine hundred sixty hours, whichever is greater, in any payroll calendar year. For the purposes of this provision, "payroll calendar year" means the twelve-month period commencing on the first day of the first pay period for active city employees.
- B. The procedures for the employment of a retired person under this section shall be in accordance with the procedures set forth in the human resources administrative manual.
- C. A person who retired for disability shall be eligible for employment under this section only if employment is not available under Part 10A of this chapter.
- D. The employment of a person pursuant to this section shall not operate to reinstate the person as a member of this system. The person shall not earn service credit in this system for any period of such reemployment, nor shall either the person or the city make any contributions to this system on account of such employment.
- E. The employment of a person pursuant to this section shall not operate to terminate or suspend the retirement allowance otherwise payable to such person.
- F. A person employed pursuant to this section shall not be entitled to a disability retirement from the position in which the person is reemployed.
- G.

If the Internal Revenue Service determines that a reemployment program such as that described in this section can not be implemented without placing a retirement system out of conformity with the qualified plan requirements of the Internal Revenue Code (Title 26 of the United States Code), this section shall become inoperative and any employment of a person pursuant to this section shall be terminated immediately.

(Ord. 26355.)